

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTONIO MENDOZA MENDOZA,

Defendant.

CASE NO. 13-CR-6042-EFS

**ORDER DENYING DEFENDANT'S MOTION
FOR REDUCTION OF SENTENCE**

Before the Court, without oral argument, is Defendant Antonio Mendoza Mendoza's Motion to Reduce Sentence, ECF No. 60, and related *pro se* motion, ECF No. 55. The United States Attorney's Office (USAO) opposes the motions. ECF No. 61. Defendant was sentenced on December 17, 2013, to 36 months imprisonment, ECF No. 49, and Judgment was entered, ECF No. 50. Defendant now moves the Court under 18 U.S.C. § 3582 to reduce his sentence pursuant to Amendment 782 to the U.S. Sentencing Guidelines.

Amendment 782 reduced the base offense level in the Guidelines' drug quantity tables by two levels. See U.S.S.G. § 2D1.1(c). Under Section 1B1.10 of the Guidelines, the Court may reduce a defendant's term of imprisonment if the applicable Guideline range has been lowered by an amendment to the Guidelines *so long as* the defendant

1 does not receive an imprisonment sentence that is less than the
2 minimum of the amended Guideline range. U.S.S.G. § 1B1.10(b)(2)(A);
3 see *United States v. Davis*, 739 F.3d 1222, 1225-26 (9th Cir. 2014)
4 (upholding the Sentencing Commission's low-end-of-Guideline-range
5 limitation on retroactive sentencing reductions); *United States v.*
6 *Tercero*, 734 F.3d 979, 982-84 (9th Cir. 2013) (same).

7 Defendant's original Sentencing Guideline range was 45-57
8 months. Statement of Reasons, ECF No. 51. Defendant's Guideline
9 range after Amendment 782's two-level base-offense-level reduction is
10 37-46 months. ECF No. 60. Notwithstanding a reduction in the
11 applicable Guideline range, Guideline policy statement
12 § 1B1.10(b)(2)(A) and Application Note 3 thereto remove the Court's
13 ability to lower an imprisonment sentence if the imposed sentence was
14 less than the low end of the amended Guideline range. Although the
15 Court finds Defendant's arguments persuasive and agrees that
16 application of § 1B1.10(b)(2)(A) and Application Note 3 leads to an
17 illogical and unfair result in this case, the Court nevertheless feels
18 constrained by the Guidelines and the Ninth Circuit's interpretation
19 of them. See *Davis*, 739 F.3d at 1225-26; *Tercero*, 734 F.3d at 982-84.
20 Because Defendant's imprisonment sentence is 36 months, which is one
21 month less than the low end of the amended Guideline range, Defendant
22 is not eligible for a sentence reduction.

23 Accordingly, **IT IS HEREBY ORDERED:**

24 1. Defendant's Motion to Reduce Sentence, **ECF No. 60**, is
25 **DENIED.**

26 2. Defendant's *pro se* Motion to Reduce Sentence, **ECF No. 55**,
is **DENIED.**

